

## CIVIL SERVICE COMMISSION MINUTES

December 16, 1998

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gordon Austin, President  
Roy Dixon, Vice-President  
Mary Gwen Brummitt  
Gloria Valencia-Cothran  
Sigrid Pate

Comprising a quorum of the Commission

Larry Cook, Executive Officer  
Ralph Shadwell, Deputy County Counsel  
Joy Kutzke, Reporting

**CIVIL SERVICE COMMISSION MINUTES  
December 16, 1998**

2:00 p.m.      CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m.      OPEN SESSION: Room 358, 1600 Pacific Highway,  
San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
8,11,12,20	21,24	23	4,5

COMMENTS Motion by Brummitt to approve all items not held for discussion; seconded by Pate. Carried.

**CLOSED SESSION AGENDA  
County Administration Center, Room 458  
(Notice pursuant to Government Code Sec. 54954.2)  
Members of the Public may be present at this  
location to hear the announcement of the  
Closed Session Agenda**

- a. Commissioner Austin: David Lopez, D.S.A. Representative, on behalf of **James R. Van Fossen**, appealing on Order of Suspension from the Sheriff's Department.
- b. Commissioner Valencia-Cothran: Adell Burge, S.E.I.U. Local 2028 Steward, on behalf of **Ronald Jordan**, appealing an Order of Removal from the Department of the Public Defender.

**REGULAR AGENDA**

NOTE: Five total minutes will be allocated for input on Agenda Items unless additional time is requested at the outset and it is approved by the President of the Commission.

**MINUTES**

1. Approval of the Minutes of the meeting of November 18, 1998.

**Approved.**

## CONFIRMATION OF ASSIGNMENT

2. Commissioner Dixon as hearing officer in the appeal of **Teresita Jones** appealing an Order of Removal from the Treasurer/Tax Collector.

**Confirmed.**

3. Commissioner Austin as hearing officer in the appeal of **Enex Caro** appealing an Order of Reduction in Compensation from the Sheriff's Department.

**Confirmed.**

## WITHDRAWALS

4. **Miriam Plotkin** appealing an Order of Compulsory Leave from the Health and Human Services Agency. Formerly assigned to Commissioner Dixon.

**Withdrawn.**

5. **Miriam Plotkin** appealing an Order of Suspension from the Health and Human Services Agency. Formerly assigned to Commissioner Austin.

**Withdrawn.**

## STIPULATED AGREEMENT

6. Commissioner Pate: James Gattey, Esq. on behalf of **Keith Cowl**, appealing an Order of Compulsory Leave from the Sheriff's Department.

RECOMMENDATION: Approve agreement.

**Agreement approved.**

7. Commissioner Brummitt: James Gattey, Esq. on behalf of **Kevin Paiva**, from an Order of Compulsory Leave from the Sheriff's Department.

RECOMMENDATION: Approve agreement.

**Agreement approved.**

## COMPULSORY LEAVE

Complaints

8. Andrea LeClerc, Esq., on behalf of **Brent Koerting** appealing an Order of Compulsory Leave from Department of Public Works.

Diane Jaynes, representative on behalf of the Department of Public Works, requested Larry Cook, Executive Officer, to read into the record the rationale for accepting Mr. Koerting's late appeal. Mr.

Cook responded that there are several unusual issues that were revealed upon his preliminary review of Mr. Koerting's placement on Compulsory Leave. He believes that a hearing is the appropriate forum in which to unravel these issues. He also referenced the **Valez** case in which the Court determined that the Commission should decide its acceptance of late appeals on a case-by-case basis. Mr. Koerting addressed the Commission stating that the County did not properly and timely execute the processing of the Order of Compulsory Leave.

RECOMMENDATION: Assign to a hearing officer.

**Staff recommendation approved. Commissioner Brummitt assigned as hearing officer.**

9. Robert Waller, Jr., Esq., on behalf of **Ruth White**, appealing an Order of Compulsory leave from the Registrar of Voters.

RECOMMENDATION: Assign to a hearing officer.

**Staff recommendation approved. Commissioner Valencia-Cothran assigned as hearing officer.**

10. **Gerald Campana** appealing an Order of Compulsory Leave from the Health and Human Services Agency.

RECOMMENDATION: Assign to a hearing officer.

**Staff recommendation approved. Commissioner Pate assigned as hearing officer.**

#### **DISCIPLINARY FINDINGS**

11. Commissioner Austin: David Lopez, D.S.A. Representative, on behalf of **James R. Van Fossen**, appealing on Order of Suspension from the Sheriff's Department.

#### **FINDINGS AND RECOMMENDATIONS:**

Employee was charged with Cause I - negligence (collision with patrol vehicle); and Cause II - acts incompatible with and/or inimical to the public service. Employee was in pursuit of a driver who avoided apprehension. The pursuit culminated in a collision with a third vehicle causing moderate damage to both vehicles. None of the occupants of the two vehicles were injured. Employee stipulated to the circumstances of the accident. Employee had no previous formal disciplines on his record. This hearing officer concludes that the charges in the order of discipline were proven to be true. Employee is guilty of Causes I and II. It is therefore recommended that the Order of Suspension of five (5) working days (42.5 hours) be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Austin to approve Findings and Recommendations;  
seconded by Valencia-Cothran. Carried.**

12. Commissioner Valencia-Cothran: Adell Burge, S.E.I.U. Local 2028 Steward, on behalf of **Ronald Jordan**, appealing an Order of Removal from the Department of the Public Defender.

**FINDINGS AND RECOMMENDATIONS:**

Employee was charged with Cause 1 - incompetency (failure to properly process cases); Cause 2 - inefficiency (failure to properly manage time); Cause 3 - insubordination; Cause 4 - dishonesty; Cause 5 - discourteous treatment of other employees; Cause 6 - negligence; Cause 7 - conduct unbecoming an officer or employee of the County; Cause 8 - negligence resulting in harm or significant risk of harm to the public; and Cause 9 - failure of good behavior. Employee has been a Public Defender Investigator for approximately 9½ years. The Department asserted that Employee has exhibited performance problems for approximately the past two years. Employee's representative contended that Employee's removal was the result of racism and the actions of another employee whose mission was to replace Employee. Testimony on behalf of Employee stated that he was suffering from stress and/or burn-out. Employee had received a letter of reprimand previously as a result of making comments in the work place threatening violence against his estranged wife and making intimidating, racist, obscene and subversive comments to a newly hired investigator with sexual and racial content. This hearing officer concluded that Employee's claim that he was the victim of racism with regard to his removal was void of credible evidence. Employee's failure of performance coupled with his negative intentional conduct clearly justified the Department's Order of Removal. Even if Employee's belated claims relating to stress and burn-out could be construed to excuse his failure of performance, Employee's detrimental misconduct alone was sufficient to support the removal. The charges described in Causes 1 through 9 of the Order of Removal were proven to be true, with the following exceptions: Cause 1(a)(3)(c), Cause 1(A)(5) (with respect to Liz Dunaksy - withdrawn), Cause 1(A)(9)(c) (with respect to Drs. Tam, Giddings and Dolgas - withdrawn), Cause 1(A)(10)(b) (withdrawn), Cause 1 (B)(3) (withdrawn); Cause 2 (D)(1) (not proven); Cause 2 (D)(4) (not proven), and Cause 2 (E)(1) (not proven). It is therefore recommended that the Order of Removal be affirmed and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Valencia-Cothran to approve Findings and  
Recommendations; seconded by Dixon. Carried.**

**SELECTION PROCESS FINDINGS/COMPLAINTS**

**Findings**

13. **Daniel Peak** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff.

14. **Jose M. Bravo** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff.

15. **Michael J. Silva** appeal of removal of his name by DHR from the employment list for Deputy Sheriff-Lateral.

16. **Claudio D. Asiong, Jr.** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff.

17. **Ramon Madrid** appeal of removal of his name by DHR from the employment list for Field Service Officer.

18. **Jeroen Heilig** appeal of removal of his name by DHR from the employment list for Deputy Sheriff.

19. **Douglas K. McDermott** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff.

RECOMMENDATION: Ratify item Nos. 13 through 19. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

**Item Nos. 13 through 19 ratified.**

20. Commissioner Pate: **Edet Eduok** appealing DHR's determination that he is ineligible to compete in the selection process for Associate Performance Auditor by the Department of Human Resources.

#### FINDINGS AND RECOMMENDATIONS:

Employee has an extensive background as a financial analyst and forecaster as well as a bachelor's degree in business administration and a master's degree in business economics. Appellant meets the minimum education qualifications to compete as an Associate Performance Auditor, however, fails to meet the minimum experience qualifiers. It is therefore recommended that the Civil Service Commission deny this appeal and that the Commission approve and file this report.

**Motion by Pate to approve Findings and Recommendations; seconded by Valencia-Cothran. Carried.**

#### Complaints

21. S.E.I.U. Local 2028 on behalf of **Robert Gould, Robert Grable and Edward Even** appealing their non-selection for promotions to Fleet Regional Manager in the Department of General Services.

RECOMMENDATION: Continue to next CSC meeting to allow staff time to review detailed input from the Department.

**Continued to next CSC meeting.**

22. **Jenean McBrearty** appealing her non-selection as a Deputy Probation Officer (also No. 23 below).

RECOMMENDATION: Hold in abeyance pending Rule VI investigation.

**Staff recommendation approved.**

#### **DISCRIMINATIONS**

23. **Jenean McBrearty** alleging age and political affiliation discrimination by the Probation Department (see also No. 22 above).

RECOMMENDATION: Assign a Commissioner and concurrently appoint the Internal Affairs Officer as hearing officer for investigation and report back.

**Staff recommendation approved. Commissioner Dixon assigned as hearing officer.**

#### **INVESTIGATIONS**

24. **Gary Craven**, a former employee of the Medical Examiner's Office, requesting investigation regarding alleged conflicting personnel records.

RECOMMENDATION: Continue at the request of Complainant to the next CSC meeting.

**Continued to next CSC meeting.**

#### **OTHER MATTERS**

##### **Performance Appraisals**

25. Health and Human Services Agency (HHSA) and **LaSonia Austin**, an Eligibility Technician in HHSA, requesting the sealing of her performance appraisal covering the period January 31, 1997 to July 31, 1997, and direct the Agency to prepare a new appraisal for the same time period.

RECOMMENDATION: Grant request.

**Staff recommendation approved.**

##### **Extension of Temporary Appointments**

26. Health and Human Services Agency

1 Residential Care Worker Trainee (Domonic Gamble)

1 Residential Care Worker I (Esther Jamila)

27. Department of Human Resources

1 Administrative Assistant I (Kimberly Garcia)

28. Sheriff's Department

1 Administrative Secretary II (Peggy A. Cowley)

RECOMMENDATION: Ratify Item Nos. 26 through 28.

**Item Nos. 26 through 28 ratified.**

29. Public Input.

Adell Burge requested the opportunity to comment on the Commission's procedures during the Jordan disciplinary hearing. Commissioner Austin informed Ms. Burge that the Public Input provision on this agenda is to discuss items that are not on the agenda. Ralph Shadwell, advised the Commission that it has voted on this matter and it may not receive any further input at this time. Mr. Cook, explained generic procedures relating to the length of Commission hearings and other matters.

ADJOURNMENT: 3:15 p.m.

**NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE FEBRUARY 3, 1999.**



## OFF DOCKET MINUTES

CIVIL SERVICE COMMISSION  
December 16, 1998

### CONFIRMATION OF ASSIGNMENT

3a. Commissioner Austin as hearing officer in the appeal of **Marco Carreon** appealing an Order of Termination from the Sheriff's Department.

RECOMMENDATION: 1) Determine that the Commission became aware of this need subsequent to the distribution of today's agenda; and 2) that there is a need to take immediate action.

**Confirmed.**